

SERVICE DATE – JULY 27, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 542 (Sub-No. 20)

REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED
IN CONNECTION WITH LICENSING AND RELATED SERVICES–2012 UPDATE

Decided: July 17, 2012

Digest:¹ The Board updates for 2012 the fees that the public must pay to file certain cases and pleadings with the Board. In this decision, we increase about half of the Board's user fee schedule, while the other half remains unchanged.

BACKGROUND

The Surface Transportation Board (STB or Board) is required by regulation at 49 C.F.R. § 1002.3 to update its user fees at least once per year. The Board's last annual user-fee update was issued in Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services–2011 Update, EP 542 (Sub-No. 19) (STB served July 28, 2011) (2011 Fee Update), and became effective September 2, 2011. This decision updates our fees based on the cost study formula set forth at 49 C.F.R. § 1002.3(d) and other factors relevant to Board fee policy.²

In this decision, we increase about half of the Board's user fee schedule, while the other half remains unchanged. Although Federal Government wages and salaries were frozen at 2010 levels (which is one factor in calculating annually the Board's user fees),³ an overall increase in

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² The current master fee schedule includes 125 fee or sub-fee items, as it did in the 2011 Fee Update.

³ On December 22, 2010, the President signed an Executive Order containing the 2011 and 2012 pay schedules for certain Federal civilian employees. Exec. Order No. 13561, 75 Fed. Reg. 81,817 (Dec. 22, 2010). Pursuant to section 147 of the Continuing Appropriations Act, 2011 (Pub. L. No. 111-242), as amended by section 1(a) of the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Pub. L. No. 111-322, Dec. 22, 2010), the Executive Order provides that the 2011 and 2012 pay rates (beginning January 1, 2011 and ending December 31, 2012) for the civilian employee pay schedules covered by the order are not
(continued . . .)

overhead cost factors resulted in a net increase in the full cost calculations. This in turn resulted in the Board's user fees either increasing (64 items or sub-items) or remaining unchanged (61 items or sub-items) from their respective 2011 Fee Update levels. The Board notes that 95 of the total 125 fee or sub-fee items, or 76% of the items, either increase by \$100 or less or remain unchanged from the 2011 Fee Update. Results from our application of the 2012 update factors are described below.

2012 UPDATE FACTORS

The 2012 update reflects the same level of direct-labor costs as in the combined 2010 Government-wide general and locality salary that took effect in January 2010.⁴ However, the fees in this decision have either increased or remained unchanged from those in the 2011 Fee Update, due mainly to various Board overhead cost factor changes. Specifically, the Government Fringe Benefit Cost Factor used in the current update formula is applied at the same rate as last year's decision – 56.25%.⁵ Based on fiscal year (FY) 2011 actual budget data, the Office General and Administrative Expense Factor has increased from 22.21% to 25.91%, while the Operations Overhead Factor, developed from FY 2011 payroll cost data, has decreased from 18.58% to 17.81%. Lastly, the Board's General and Administrative Expense Factor increased from 12.62% to 13.36%. The 2012 full cost level for each fee or sub-fee item developed from these factors is set forth in column 9 of **APPENDIX A**.⁶ The 2012 full cost levels have increased by approximately 3.00%, *vis a vis* their comparable 2011 Fee Update full cost levels.

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adjusted and remain at 2010 levels.

⁴ That combined increase from year 2010 was composed of a general schedule increase of 1.50% and a locality payment increase of 0.92%, for a total of 2.42%.

⁵ No updates have been instituted with regard to the Government Fringe Benefit Cost Factor. Therefore, pursuant to a memorandum (M-08-13) from the Executive Office of the President–Office of Management and Budget (OMB) dated March 11, 2008, and based on past Board precedent, the component parts of the Government Fringe Benefit Cost Factor have been updated as follows: the Standard Civilian Retirement Benefit remains at 26.10%; the Insurance and Health Benefit remains at 7.00%; the Medicare Benefit remains at 1.45%; the Miscellaneous Fringe Benefit remains at 1.70%; and the Leave and Holiday Benefit remains at 20.00%.

⁶ The exact overhead factors utilized in **APPENDIX A** are as follows: Operations Overhead Factor = **0.17812720**; Office Overhead Factor = **0.25910016**; and Board Overhead Factor = **0.13360335**.

FEDERAL REGISTER COST

There is no change in publication costs from the 2011 Fee Update decision. The United States Government Printing Office (GPO) last informed the Board that, due to changes called for in GPO's July 2, 2010 Circular Letter No. 777, publication costs were set at \$159 per column. No further Circular Letter dealing with the cost of publication has been published. Thus, the 2011 Fee Update decision publication cost levels remain unchanged.

OTHER FEES

1. Formal Complaint Fees:

On July 7, 2011, the STB adopted a final rule that set the fees for full Stand-Alone Cost (SAC) rate complaints (fee item 56(i)) at \$350; set the fee for Simplified-SAC rate complaints at \$350 (sub-item 56 (ii)); and reduced the fee for all other formal complaints from \$20,600 to \$350 (sub-item 56 (iv)). Regulations Governing Fees For Services, EP 542 (Sub-No. 18) (STB served Jul. 7, 2011). These fees remain unchanged and are reflected in the Schedule of Filing Fees in **APPENDIX B**.

2. Other Original Below-Cost Fees (Capped):

Historically, certain fees have been held well below the full cost level. The Board capped these fees out of a concern that higher fees could have a chilling effect on the ability of some to bring a matter to our attention, or because certain types of actions were deemed to benefit the general public. Capped fees are occasionally adjusted, and the Board continues to monitor them. Such fees include: trail use condition requests—item 27(i); Amtrak conveyance and compensation proceedings—items 47 and 48, respectively; appeals to Board decisions—item 61(i); motor carrier undercharge proceedings—item 62; and labor arbitration proceedings—item 60. See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2002 New Fees, 7 S.T.B. 511 (2004) (2002 New Fees).

In the 2009 Fee Update, the Board raised each of these six fee and sub-fee items from \$200 to \$250. The \$250 fees were predicated on a measurement of the full cost level changes between March 2004 and March 2009. These fee and sub-fee items were kept at these levels in last year's fee update decision, and the Board will continue to hold the six items constant at their \$250 levels in this decision.

Other below-cost fees – feeder line development program (\$2,600)—item 13, petition for declaratory order involving a dispute over an existing rate or practice (\$1,000)—item 58(i), and all other petitions for declaratory order (\$1,400)—item 58(ii) – will also remain at their current fee levels.

3. Certain Fees from the 2002 New Fees Decision Held Below-Cost (Capped):

In the 2002 New Fees decision, the Board added 19 new fee or sub-fee items to its user-fee schedule. Six of those items were capped below their full costs for reasons discussed either in the 2002 New Fees final decision or in the Notice of Proposed Rulemaking for that proceeding.⁷ Those capped items included: request for determination of a dispute involving a rail construction that crosses the line of another carrier—item 12(iv); formal complaint involving rail maximum rates filed under the Three Benchmark methodology—former item 56(ii), now 56(iii); request for an order compelling a rail carrier to establish a common carrier rate—item 56(vi); request for expedited or temporary relief for service emergency or service inadequacy,—items 63(i) and 63(ii), respectively; and basic fee for STB adjudicatory services not otherwise covered—item 88.

In this decision, the Board also holds the fees for all six 2002 New Fee sub-item fees at their current levels. The Board adjusts the remaining 13 items established in 2002 New Fees to account for the changes to the Board’s various overhead costs. These items are included in the Schedule of Filing Fees in **APPENDIX B**.

4. Fee Items Pertaining to Solid-Waste Rail Transfer Facilities:

On January 14, 2009, the Board served both a Notice of Proposed Rulemaking and an Adoption of Interim Rules in Solid Waste Rail Transfer Facilities, EP 684. This rulemaking was based on the October 16, 2008 Clean Railroads Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848 (CRA), which revised 49 U.S.C. § 10501(c)(2) to remove regulation of solid-waste rail transfer facilities from the Board’s jurisdiction, except as provided in that Act. The CRA limited the Board’s authority to regulate solid-waste rail transfer facilities to the issuance of land-use-exemption permits. In adopting Interim Rules, the Board established two new fees for the Board’s current master Schedule of Filing Fees, which are:

(16) An application for a land-use-exemption permit for a facility existing as of October 16, 2008 under 49 U.S.C. 10909..... \$6,300.

(17) An application for a land-use-exemption permit for a facility not existing as of October 16, 2008 under 49 U.S.C. 10909 \$22,200.⁸

On March 24, 2011, the Board served Revised Interim Rules governing land-use-exemption permits for solid waste rail transfer facilities and requested comments from interested parties on the modifications.⁹ The fees established for filings under the original Interim Rules, as

⁷ Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2002 New Fees, EP 542 (Sub-No. 4) (STB served Aug. 29, 2002).

⁸ Solid Waste Rail Transfer Facilities, EP 684, slip op. at 15 (STB served Jan. 14, 2009).

⁹ Solid Waste Rail Transfer Facilities, EP 684, (STB served Mar. 24, 2011).

adjusted here, increase over the 2011 Fee Update levels. When the Board applies the current update formula to these two items, adjusting them as it does for all other non-capped user fee or sub-fee items in the schedule, it results in 2012 fees of \$6,200 and \$21,700 for items (16) and (17), respectively. This results in an increase to the Solid Waste fees of \$200 and \$600, respectively, over their 2011 Fee Update counterpart levels.

RESULTS FROM THE 2012 UPDATE

The Board's current master Schedule of Filing Fees, like last year, contains 125 fee or sub-fee items. Based on the various overhead cost changes instituted in this decision, we find the following results: (1) fees for 61 of the 125 fee or sub-fee items remain unchanged (about 48.8% of the Board's 125 items); (2) fees for 34 items (about 27.2% of the 125 total) have increased by \$100 or less; (3) fees for 19 items have increased by \$200 to \$900 (15.2% of the schedule); (4) fees for three items have been increased by \$1,000 to \$2,500; (5) fees for four items have been increased by \$2,600 to \$10,000; and (6) fees for four items have been increased by over \$10,000.¹⁰

The following table depicts the breakdown of user-fee changes for this proceeding.

¹⁰ The four sub-fee items shown with increases over \$10,000 (actual increases of \$45,000 each) are all covered under fee items 38 through 41 [parts (i)] dealing with Major Transactions, respectively. The four sub-fee items shown with increases of \$2,600 to \$10,000 (actual increases of \$9,000 each) also pertain to fee items 38 through 41 [parts (ii)] dealing with Significant Transactions, respectively.

SUMMARY OF USER-FEE CHANGES FOR 2012

Fee Item Change Category:	Number of User Fees	Percent of Total User Fee Schedule
(1)	(2)	(3)
1. No Fee Change	61	48.8%
2. Increases of \$0 to \$50	9	7.2%
3. Increases of \$100	25	20.0%
4. Increases of \$200 to \$900	19	15.2%
5. Increase of \$1,000 to \$2,500	3	2.4%
6. Increases of \$2,600 to \$10,000	4	3.2%
7. Increases Over \$10,000	4	3.2%
TOTAL	125	100.00%

NOTICE AND COMMENT REQUIREMENT

The fee changes adopted here generally are a product of the mechanical application of the current update formula at 49 C.F.R. § 1002.3(d), which was adopted through notice and comment procedures in Regulations Governing Fees for Service—1987 Update, 4 I.C.C.2d 137 (1987). This decision does not contain any new proposed fee or sub-fee items. Therefore, notice and comment are unnecessary for this proceeding. See Regulations Governing Fees For Services—1990 Update, 7 I.C.C.2d 3 (1990); Regulations Governing Fees For Services—1991 Update, 8 I.C.C.2d 13 (1991); and Regulations Governing Fees For Services—1993 Update, 9 I.C.C.2d 855 (1993).

REGULATORY FLEXIBILITY ANALYSIS

The Regulatory Flexibility Act of 1980, 5 U.S.C. §§ 601-612, generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. 5 U.S.C. §§ 601-604. In its notice of proposed rulemaking, the agency must either include an initial regulatory flexibility analysis, 5 U.S.C. § 603(a), or certify that the proposed rule will not have a "significant impact on a substantial number of small entities," 5 U.S.C. § 605(b), *i.e.*, a direct impact on small entities "whose conduct is circumscribed or mandated" by the proposed rule. White Eagle Coop. Ass'n v. Conner, 553 F.3d 467, 480 (7th Cir. 2009).

Though these rules may have some impact on a small entity because a small entity may be subject to a filing fee, the rules provide a waiver provision of filing fees for those entities that can make the required showing of financial hardship. Therefore, any small entity that would incur a significant economic impact from paying one of the fees – many of which are in fact held at current levels in this decision – could make such a showing and have that fee waived. Accordingly, pursuant to 5 U.S.C. § 605(b), the Board certifies that the regulations proposed herein would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

It is ordered:

1. 49 C.F.R. Part 1002 of the Code of Federal Regulations is amended as indicated in **APPENDIX B**. Notice of the final rules adopted here will be transmitted to Congress pursuant to Pub. L. 104-121 (Mar. 29, 1996).

2. These rules are effective on August 26, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

APPENDIX A

FEE	2009 DIRECT LABOR	2012 DIRECT LABOR UPDATE [(2010 LEVEL NO INCR. (0.00%)]	(56.25%) GOVT. FRINGES	TOTAL 2+3	(17.81%) OPERATIONS OVERHEAD	(25.91%) OFFICE G&A	(13.36%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
1	\$1,693.05	\$1734.02	\$975.39	\$2,709.41	\$482.62	\$827.06	\$536.96	\$4.00	\$4,560.05
2i	713.77	731.04	411.21	1142.26	203.47	348.68	226.38	189.13	2109.91
2ii	1107.48	1134.28	638.03	1772.31	315.70	541.00	351.25	340.96	3321.22
2iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2745.83 ¹¹
3	10494.52	10748.49	6046.02	16794.51	2991.56	5126.57	3328.41	189.13	28430.19
4i	1693.05	1734.02	975.39	2709.41	482.62	827.06	536.96	189.13	4745.18
4ii	40.69	41.67	23.44	65.12	11.60	19.88	12.91	0.00	109.50
5	190.95	195.57	110.01	305.58	54.43	93.28	60.56	5.00	518.85
6	546.44	559.66	314.81	874.47	155.77	266.94	173.31	273.28	1743.77
11i	2722.09	2787.96	1568.23	4356.19	775.96	1329.74	863.33	159.00	7484.22
11ii	582.88	596.99	335.80	932.79	166.16	284.74	184.86	291.51	1860.05
11iii	4739.81	4854.51	2730.66	7585.18	1351.13	2315.40	1503.26	189.13	12944.10
12i	28446.29	29134.69	16388.26	45522.95	8108.88	13896.02	9021.95	204.43	76754.22
12ii	582.88	596.99	335.80	932.79	166.16	284.74	184.86	291.51	1860.05
12iii	28446.29	29134.69	16388.26	45522.95	8108.88	13896.02	9021.95	204.43	76754.22
12iv	5650.79	5787.54	3255.49	9043.03	1610.81	2760.41	1792.19	0.00	15206.44

¹¹ There are several fee items, such as 2iii, which list a total sum in column 9 without broken-out costs in columns 1 through 8. The full costs for these items were not computed through a time-and-motion study. Instead, they were estimated in a prior fee update or in specific decisions, based either on a comparable fee item (e.g., the cost for non-rail-related petitions to revoke were based upon the cost for rail-related petitions to revoke) or through a special calculation intended to lower the user fee far below actual full costs (e.g., complaints for small rate cases—Three Benchmark).

FEE	2009 DIRECT LABOR	2012 DIRECT LABOR UPDATE [(2010 LEVEL <u>NO</u> INCR. (0.00%)]	(56.25%) GOVT. FRINGES	TOTAL 2+3	(17.81%) OPERATIONS OVERHEAD	(25.91%) OFFICE G&A	(13.36%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
13	8737.26	8948.70	5033.64	13982.35	2490.64	4268.15	2771.09	185.50	23697.72
14i	2304.35	2360.12	1327.56	3687.68	656.88	1125.68	730.84	189.13	6390.20
14ii	582.88	596.99	335.80	932.79	166.16	284.74	184.86	291.51	1860.05
14iii	2457.50	2516.97	1415.80	3932.77	700.53	1200.49	779.41	208.70	6821.90
15	588.40	602.64	338.98	941.62	167.73	287.43	186.62	162.62	1746.02
16	2226.33	2280.21	1287.18	3567.38	635.45	1088.95	707.00	231.78	6230.57
17	8033.08	8227.48	4627.96	12855.44	2289.90	3924.16	2547.75	159.00	21776.25
21i	8417.06	8620.75	4849.17	13469.93	2399.36	4111.73	2669.53	159.00	22809.55
21ii	1256.49	1286.90	723.88	2010.78	358.17	613.80	398.50	403.54	3784.79
21iii	2332.75	2389.20	1343.93	3733.13	664.97	1139.55	739.85	231.78	6509.28
22	182.03	186.44	104.87	291.30	51.89	88.92	57.73	0.00	489.85
23	726.31	743.89	418.44	1162.32	207.04	354.80	230.35	0.00	1954.52
24	695.02	711.84	400.41	1112.25	198.12	339.52	220.43	0.00	1870.32
25	597.83	612.30	344.42	956.71	170.42	292.04	189.61	0.00	1608.78
26	8662.94	8872.58	4990.83	13863.41	2469.45	4231.85	2747.51	0.00	23312.22
27i	448.22	459.07	258.23	717.29	127.77	218.96	142.16	0.00	1206.17
27ii	175.78	180.03	101.27	281.30	50.11	85.87	55.75	0.00	473.03
36	7175.66	7349.31	4133.99	11483.30	2045.49	3505.31	2275.81	189.13	19499.04
37	3842.90	3935.90	2213.94	6149.84	1095.45	1877.26	1218.80	189.13	10530.49
38i	567710.25	581448.84	327064.97	908513.81	161831.02	277326.52	180053.41	5843.36	1533568.11
38ii	113544.33	116292.10	65414.31	181706.41	32366.85	55466.42	36011.40	1168.66	306719.75
38iii	2304.35	2360.12	1327.56	3687.68	656.88	1125.68	730.84	1494.06	7695.14

FEE	2009 DIRECT LABOR	2011 DIRECT LABOR UPDATE [2010 LEVEL NO INCR. (0.00%)]	(56.25%) GOVT. FRINGES	TOTAL 2+3	(17.81%) OPERATIONS OVERHEAD	(25.91%) OFFICE G&A	(13.36%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
38iv	546.44	559.66	314.81	874.47	155.77	266.94	173.31	273.28	1743.77
38v	2304.35	2360.12	1327.56	3687.68	656.88	1125.68	730.84	1494.06	7695.14
38vi	3517.49	3602.61	2026.47	5629.08	1002.69	1718.29	1115.60	189.13	9654.80
38vii	2116.39	2167.61	1219.28	3386.89	603.30	1033.86	671.23	0.00	5695.27
39i	567710.25	581448.84	327064.97	908513.81	161831.02	277326.52	180053.41	5843.36	1533568.11
39ii	113544.33	116292.10	65414.31	181706.41	32366.85	55466.42	36011.40	1168.66	306719.75
39iii	2304.35	2360.12	1327.56	3687.68	656.88	1125.68	730.84	1494.06	7695.14
39iv	396.62	406.22	228.50	634.72	113.06	193.75	125.79	294.15	1361.47
39v	2304.35	2360.12	1327.56	3687.68	656.88	1125.68	730.84	1494.06	7695.14
39vi	3517.49	3602.61	2026.47	5629.08	1002.69	1718.29	1115.60	189.13	9654.80
39vii	2116.39	2167.61	1219.28	3386.89	603.30	1033.86	671.23	0.00	5695.27
40i	567710.25	581448.84	327064.97	908513.81	161831.02	277326.52	180053.41	5843.36	1533568.11
40ii	113544.33	116292.10	65414.31	181706.41	32366.85	55466.42	36011.40	1168.66	306719.75
40iii	2304.35	2360.12	1327.56	3687.68	656.88	1125.68	730.84	1494.06	7695.14
40iv	367.36	376.25	211.64	587.89	104.72	179.46	116.51	240.51	1229.09
40v	2304.35	2360.12	1327.56	3687.68	656.88	1125.68	730.84	1494.06	7695.14
40vi	3517.49	3602.61	2026.47	5629.08	1002.69	1718.29	1115.60	189.13	9654.80
40vii	2116.39	2167.61	1219.28	3386.89	603.30	1033.86	671.23	0.00	5695.27
41i	567710.25	581448.84	327064.97	908513.81	161831.02	277326.52	180053.41	5843.36	1533568.11
41ii	113544.33	116292.10	65414.31	181706.41	32366.85	55466.42	36011.40	1168.66	306719.75
41iii	2304.35	2360.12	1327.56	3687.68	656.88	1125.68	730.84	1494.06	7695.14
41iv	436.78	447.35	251.63	698.98	124.51	213.37	138.53	272.57	1447.96
41v	2304.35	2360.12	1327.56	3687.68	656.88	1125.68	730.84	1494.06	7695.14

FEE	2009 DIRECT LABOR	2012 DIRECT LABOR UPDATE [2010 LEVEL <u>NO</u> INCR. (0.00%)]	(56.25%) GOVT. FRINGES	TOTAL 2+3	(17.81%) OPERATIONS OVERHEAD	(25.91%) OFFICE G&A	(13.36%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
41vi	2457.50	2516.97	1415.80	3932.77	700.53	1200.49	779.41	208.70	6821.90
41vii	2116.39	2167.61	1219.28	3386.89	603.30	1033.86	671.23	0.00	5695.27
42	788.77	807.86	454.42	1262.28	224.85	385.31	250.16	344.50	2467.11
43	26620.47	27264.69	15336.39	42601.07	7588.41	13004.10	8442.87	189.13	71825.59
44i	4876.97	4994.99	2809.68	7804.68	1390.23	2382.40	1546.77	189.13	13313.20
44ii	40.69	41.67	23.44	65.12	11.60	19.88	12.91	0.00	109.50
45	302.91	310.24	174.51	484.75	86.35	147.97	96.07	0.00	815.14
46	2993.43	3065.87	1724.55	4790.42	853.30	1462.29	949.39	189.13	8244.54
47	57575.73	58969.06	33170.10	92139.16	16412.49	28125.75	18260.56	0.00	154937.96
48	69833.23	71523.19	40231.80	111754.99	19906.60	34113.54	22148.11	0.00	187923.25
56i	159437.34	163295.72	91853.84	255149.57	45449.08	77885.16	50566.70	0.00	429050.51
56ii	15818.88	16201.70	9113.45	25315.15	4509.32	7727.52	5017.07	0.00	42569.07
56iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
56iv	15818.88	16201.70	9113.45	25315.15	4509.32	7727.52	5017.07	0.00	42569.07
56v	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
56vi	19716.73	20193.87	11359.05	31552.93	5620.43	9631.62	6253.30	0.00	53058.29
57	3392.93	3475.04	1954.71	5429.75	967.19	1657.45	1076.09	0.00	9130.47
58i	3187.45	3264.59	1836.33	5100.92	908.61	1557.07	1010.92	596.26	9173.78
58ii	2522.09	2583.12	1453.01	4036.13	718.94	1232.04	799.90	159.00	6946.02
59	2621.98	2685.43	1510.56	4195.99	747.42	1280.84	831.58	189.13	7244.96
60	5195.59	5321.32	2993.24	8314.57	1481.05	2538.05	1647.82	0.00	13981.48
61i	2532.93	2594.23	1459.25	4053.48	722.03	1237.34	803.34	0.00	6816.19

FEE	2009 DIRECT LABOR	2012 DIRECT LABOR UPDATE [2010 LEVEL <u>NO</u> INCR. (0.00%)]	(56.25%) GOVT. FRINGES	TOTAL 2+3	(17.81%) OPERATIONS OVERHEAD	(25.91%) OFFICE G&A	(13.36%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
61ii	144.52	148.02	83.26	231.28	41.20	70.60	45.84	0.00	388.91
62	4012.83	4109.94	2311.84	6421.78	1143.89	1960.27	1272.70	0.00	10798.64
63i	7124.53	7296.94	4104.53	11401.47	2030.91	3480.33	2259.60	0.00	19172.32
63ii	7942.00	8134.20	4575.49	12709.68	2263.94	3879.67	2518.86	0.00	21372.15
64	228.62	234.15	131.71	365.86	65.17	111.68	72.51	0.00	615.22
76	474.89	486.38	273.59	759.97	135.37	231.98	150.61	2.00	1279.94
77	50.23	51.45	28.94	80.38	14.32	24.54	15.93	0.00	135.17
78	9.45	9.68	5.44	15.12	2.69	4.62	3.00	0.00	25.43
79i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
79ii	59.85	61.30	34.48	95.78	17.06	29.24	18.98	0.00	161.06
80	234.26	239.93	134.96	374.89	66.78	114.44	74.30	0.00	630.40
81i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
81ii	59.85	61.30	34.48	95.78	17.06	29.24	18.98	0.00	161.06
82	95.11	97.41	54.79	152.21	27.11	46.46	30.16	0.00	255.94
83	15.72	16.10	9.06	25.16	4.48	7.68	4.99	0.00	42.30
84	101.89	104.36	58.70	163.06	29.04	49.77	32.32	0.00	274.19
85	437.96	448.56	252.31	700.87	124.84	213.94	138.90	0.00	1178.56
86i	570.63	584.44	328.75	913.19	162.66	278.75	180.98	0.00	1535.58
86ii	1959.82	2007.25	1129.08	3136.32	558.66	957.37	621.57	0.00	5273.93
86iii	200.62	205.48	115.58	321.05	57.19	98.00	63.63	0.00	539.87
87i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
87ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00

FEE	2009 DIRECT LABOR	2012 DIRECT LABOR UPDATE [2010 LEVEL <u>NO</u> INCR. (0.00%)]	(56.25%) GOVT. FRINGES	TOTAL 2+3	(17.81%) OPERATIONS OVERHEAD	(25.91%) OFFICE G&A	(13.36%) BOARD G&A	PUBLICATION COSTS	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
87iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
87iv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
87v	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
88	218.71	224.00	126.00	350.00	62.35	106.84	69.37	0.00	588.55
96	12.29	12.59	7.08	19.67	3.50	6.00	3.90	0.00	33.07
97	9.35	9.58	5.39	14.96	2.67	4.57	2.97	0.00	25.16
98ia	62.27	63.78	35.87	99.65	17.75	30.42	19.75	0.00	167.57
98ib	18.05	18.49	10.40	28.89	5.15	8.82	5.72	0.00	48.57
98iia	98.38	100.76	56.68	157.44	28.04	48.06	31.20	159.00	423.74
98iib	18.05	18.49	10.40	28.89	5.15	8.82	5.72	0.00	48.57
99i	73.11	74.88	42.12	117.00	20.84	35.71	23.19	0.00	196.74
99ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	25.00
100i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	250.00
100ii	70.19	71.89	40.44	112.33	20.01	34.29	22.26	0.00	188.88
102	6.51	6.67	3.75	10.42	1.86	3.18	2.06	0.00	17.52
103	40.33	41.31	23.23	64.54	11.50	19.70	12.79	0.00	108.53
104	27.91	28.59	16.08	44.66	7.96	13.63	8.85	0.00	75.11
105	0.91	0.93	0.52	1.46	0.26	0.44	0.29	0.00	2.45
106	70.19	71.89	40.44	112.33	20.01	34.29	22.26	0.00	188.88

APPENDIX B

For reasons set forth in the preamble, title 49, chapter X, part 1002, of the Code of Federal Regulations is amended as follows:

Part 1002 - FEES

1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701 and 49 U.S.C. 721(a).

* * * * *

2. In § 1002.2, paragraph (f) is revised as follows:

§ 1002.2 Filing fees.

(a) * * *

(f) Schedule of filing fees.

Type of Proceeding	Fee
PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(1) An application for the pooling or division of traffic.....	\$4,500.
(2) (i) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier of passengers under 49 U.S.C. 14303	\$2,100.
(ii) A petition for exemption under 49 U.S.C. 13541 (other than a rulemaking) filed by a non-rail carrier not otherwise covered	\$3,300.
(iii) A petition to revoke an exemption filed under 49 U.S.C. 13541(d)	\$2,700.
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703.	\$28,400.

(4)	An application for approval of an amendment to a non-rail rate association agreement:	
	(i) Significant amendment	\$4,700.
	(ii) Minor amendment	\$100.
(5)	An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i)	\$500.
(6)	A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family	\$1,700.
(7)-(10) [Reserved]		

PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:		
(11)	(i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901	\$7,400.
	(ii) Notice of exemption under 49 CFR 1150.31-1150.35	\$1,800.
	(iii) Petition for exemption under 49 U.S.C. 10502	\$12,900.
(12)	(i) An application involving the construction of a rail line-	\$76,700.
	(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36	\$1,800.
	(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line	\$76,700.
	(iv) A request for determination of a dispute involving a rail construction that crosses the line of another carrier under 49 U.S.C. 10902(d)	\$250.
(13)	A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(i) or 10907(b)(1)(A)(ii)	\$2,600.

(14)	(i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902.	\$6,300.
	(ii) Notice of exemption under 49 CFR 1150.41 - 1150.45	\$1,800.
	(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902	\$6,800.
(15)	A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21-1150.24.....	\$1,700.
(16)	An application for a land-use-exemption permit for a facility existing as of October 16, 2008 under 49 U.S.C. 10909	\$6,200.
(17)	An application for a land-use-exemption permit for a facility not existing as of October 16, 2008 under 49 U.S.C. 10909	\$21,700.
(18)-(20)	[Reserved]	

PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:		
(21)	(i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97-35], bankrupt railroads, or exempt abandonments)	\$22,800.
	(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	\$3,700.
	(iii) A petition for exemption under 49 U.S.C. 10502	\$6,500.
(22)	An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act	\$450.
(23)	Abandonments filed by bankrupt railroads.....	\$1,900.

(24)	A request for waiver of filing requirements for abandonment application proceedings	\$1,800.
(25)	An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment	\$1,600.
(26)	A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned.....	\$23,300.
(27)	(i) Request for a trail use condition in an abandonment proceeding under 16 U.S.C.1247(d).....	\$250.
	(ii) A request to extend the period to negotiate a trail use agreement.....	\$450.
(28)-(35) [Reserved]		

PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:		
(36)	An application for use of terminal facilities or other applications under 49 U.S.C. 11102	\$19,400.
(37)	An application for the pooling or division of traffic. 49 U.S.C. 11322.....	\$10,500.
(38)	An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:	
	(i) Major transaction	\$1,533,500.
	(ii) Significant transaction	\$306,700.
	(iii) Minor transaction	\$7,600.
	(iv) Notice of an exempt transaction under 49 CFR 1180.2(d).....	\$1,700.
	(v) Responsive application.....	\$7,600.

(vi) Petition for exemption under 49 U.S.C. 10502.....	\$9,600.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a)	\$5,600.
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	\$1,533,500.
(ii) Significant transaction	\$306,700.
(iii) Minor transaction.....	\$7,600.
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d).....	\$1,300.
(v) Responsive application.....	\$7,600.
(vi) Petition for exemption under 49 U.S.C. 10502.....	\$9,600.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a)	\$5,600.
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:	
(i) Major transaction	\$1,533,500.
(ii) Significant transaction	\$306,700.
(iii) Minor transaction.....	\$7,600.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d).....	\$1,200.
(v) Responsive application.....	\$7,600.
(vi) Petition for exemption under 49 U.S.C. 10502.....	\$9,600.

(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a)	\$5,600.
(41) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	\$1,533,500.
(ii) Significant transaction	\$306,700.
(iii) Minor transaction	\$7,600.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,400.
(v) Responsive application	\$7,600.
(vi) Petition for exemption under 49 U.S.C. 10502	\$6,800.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a)	\$5,600.
(42) Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5)	\$2,400.
(43) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	\$71,800.
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment	\$13,300.
(ii) Minor amendment	\$100.
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328	\$800.
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered	\$8,200.

(47)	National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562	\$250.
(48)	National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act	\$250.
(49)-(55) [Reserved]		

PART V: Formal Proceedings:		
(56)	A formal complaint alleging unlawful rates or practices of carriers:	
	(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1)	\$350.
	(ii) A formal complaint involving rail maximum rates filed under the Simplified-SAC methodology	\$350.
	(iii) A formal complaint involving rail maximum rates filed under the Three Benchmark methodology	\$150.
	(iv) All other formal complaints (except competitive access complaints)	\$350.
	(v) Competitive access complaints	\$150.
	(vi) A request for an order compelling a rail carrier to establish a common carrier rate	\$250.
(57)	A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705	\$9,100.
(58)	A petition for declaratory order:	
	(i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding	\$1,000.
	(ii) All other petitions for declaratory order	\$1,400.

(59)	An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	\$7,200.
(60)	Labor arbitration proceedings	\$250.
(61)	(i) An appeal of a Surface Transportation Board decision on the merits or petition to revoke an exemption pursuant to 49 U.S.C. 10502(d)	\$250.
	(ii) An appeal of a Surface Transportation Board decision on procedural matters except discovery rulings	\$350.
(62)	Motor carrier undercharge proceedings	\$250.
(63)	(i) Expedited relief for service inadequacies: A request for expedited relief under 49 U.S.C. 11123 and 49 CFR part 1146 for service emergency	\$250.
	(ii) Expedited relief for service inadequacies: A request for temporary relief under 49 U.S.C. 10705 and 11102, and 49 CFR part 1147 for service inadequacy	\$250.
(64)	A request for waiver or clarification of regulations except one filed in an abandonment or discontinuance proceeding, or in a major financial proceeding as defined at 49 CFR 1180.2(a)	\$600.
(65)-(75) [Reserved]		

PART VI: Informal Proceedings:		
(76)	An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706	\$1,200.
(77)	An application for special permission for short notice or the waiver of other tariff publishing requirements	\$100.
(78)	The filing of tariffs, including supplements, or contract summaries	\$1 per page. (\$25 minimum charge.)
(79)	Special docket applications from rail and water carriers:	
	(i) Applications involving \$25,000 or less	\$75.

(ii) Applications involving over \$25,000.....	\$150.
(80) Informal complaint about rail rate applications	\$600.
(81) Tariff reconciliation petitions from motor common carriers:	
(i) Petitions involving \$25,000 or less	\$75.
(ii) Petitions involving over \$25,000	\$150.
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3)	\$250.
(83) Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c)	\$42 per document.
(84) Informal opinions about rate applications (all modes)	\$250.
(85) A railroad accounting interpretation	\$1,100.
(86) (i) A request for an informal opinion not otherwise covered	\$1,500.
(ii) A proposal to use on a voting trust agreement pursuant to 49 CFR 1013 and 49 CFR 1180.4(b)(4)(iv) in connection with a major control proceeding as defined at 49 CFR 1180.2(a)	\$5,200.
(iii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) not otherwise covered	\$500.
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	
(i) Complaint.....	\$75.
(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration.....	\$75.

(iii) Third Party Complaint	\$75.
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration	\$75.
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award.....	\$150.
(88) Basic fee for STB adjudicatory services not otherwise covered	\$250.
(89)-(95) [Reserved]	

PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier=s Washington, DC, agent	\$33 per delivery.
(97) Request for service or pleading list for proceedings.....	\$25 per list.
(98) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Board or State proceeding that:	
(i) Does not require a Federal Register notice:	
(a) Set cost portion	\$150.
(b) Sliding cost portion	\$48 per party.
(ii) Does require a Federal Register notice:	
(a) Set cost portion	\$400.
(b) Sliding cost portion	\$48 per party.
(99) (i) Application fee for the Surface Transportation Board=s Practitioners= Exam.....	\$150.
(ii) Practitioners= Exam Information Package	\$25.
(100) Carload Waybill Sample data:	
(i) Requests for Public Use File for all years prior to the	

most current year Carload Waybill Sample data available, provided on CD-R	\$250 per year.
(ii) Specialized programming for Carload Waybill requests to the Board.....	\$112 per hour.

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